

April 23, 1996

REPORT TO THE BOARD OF ADMINISTRATION FOR THE
SAN DIEGO CITY EMPLOYEES' RETIREMENT SYSTEM

At the April meeting of the Board of Administration ("Board") for the San Diego City Employees' Retirement System ("SDCERS") on Thursday, April 18, 1996, the Retirement Administrator informed the Board that there would be a Special Meeting for the Retirement Board on Tuesday, April 30, 1996. According to the Retirement Administrator, the purpose of the Special Board Meeting is to discuss a proposal from the City Manager.

I have reviewed the Manager's proposal. It concerns benefit improvements, contribution rates and reserve accounting. With my concurrence, the City Manager has retained the services of outside legal counsel to assist him with the fiduciary implications of this proposal. The City Manager has also retained the services of an outside actuary.

In accordance with Rule 7.20, Rules of the Retirement Board of Administration, I am also advising you to seek the services of outside fiduciary counsel to assist you in reviewing the Manager's proposal. In my view, this proposal raises important fiduciary considerations which must be fully examined as part of your decision-making process. I am uncomfortable in providing you this needed fiduciary guidance for

several reasons.

First, I will be retiring after the conclusion of my present term of office. The Manager's proposal involves proposed benefit increases which substantially enhance my retirement benefits. Although I realize that I do not have a legal conflict of interest, I am very concerned about the appearance of a conflict of interest. Second, the proposal addresses other significant benefit enhancements, future contribution rates, a change in the funding method (a return to EAN from PUC), and other changes with the Reserves maintained and administered by the Board. As both the legal advisor to the Board and the City Manager, my concern over the appearance of a conflict of interest in this sensitive and volatile area is exacerbated.

I am further guided by ethical considerations governing public lawyers. Should there be a dispute between you and the City Manager, I could have a conflict of interest in representing either of you. If this were to happen, the financial consequences could be severe. Two sets of outside counsel would be required. I want to avoid this. More importantly, I want both you and the City Manager to be advised by legal counsel not subject to the appearance of conflict raised here.

Respectfully submitted,

JOHN W. WITT
City Attorney

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